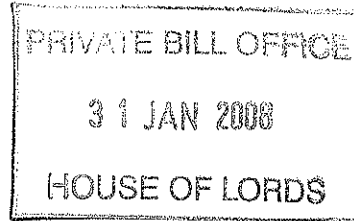


IN PARLIAMENT

HOUSE OF LORDS

SESSION 2007-08



1

LONDON LOCAL AUTHORITIES BILL [HL]

PETITION

AGAINST THE BILL – ON MERITS –
PRAYING TO BE HEARD BY COUNSEL, ETC.

TO THE RIGHT HONOURABLE THE LORDS SPIRITUAL AND TEMPORAL OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
IN PARLIAMENT ASSEMBLED

THE HUMBLE PETITION

of

THE BRITISH BEER AND PUB ASSOCIATION

SHEWETH AS FOLLOWS:—

- 1 A Bill (hereinafter referred to as “the Bill”) has been introduced into and is now pending in your Right Honourable House intituled “A Bill to confer further powers upon local authorities in London; and for related purposes.”
- 2 The Bill is promoted by Westminster City Council on behalf of the London borough councils.
- 3 The Preamble recites that it is expedient that further and better provision should be made for the improvement and development of local government services in London and for the benefit of persons residing therein and that the powers of London borough councils and the Common Council of the City of London (hereinafter referred to as “London borough councils”) should be extended and amended as provided in this Act; and also that it is

expedient that further provision be made in London about the use of penalty charges in the enforcement of certain legislation; that food business operators should be under a duty to display food hygiene inspection documentation at food business establishments in London; that London borough councils in their capacity as local housing authorities should be able to require remedial action to be taken in respect of houses in multiple occupation in cases where there has been a failure to comply with the relevant management regulations for such houses.

- 4 Part 3 contains a number of miscellaneous provisions relating to public health, environmental protection and highways.
- 5 Part 3, Clause 9 alters provisions in the Highways Act 1980 which enable local authorities to give permissions for the use of objects etc. on the highway, so that London borough councils may take into account additional considerations when setting the level of charges in relation to cases where they have given their permission under section 115E(1)(b)(i), for the placing of objects on the highway where doing so will result in the production of income.
- 6 Part 3, Clause 10 puts on a statutory footing an existing scheme in London which is known as “Scores on the Doors”. The scheme makes provisions about the display of food hygiene documentation at premises which are subject to food hygiene inspections by the borough council.
- 7 Part 4, clauses 11 to 20, reinstates powers in Greater London which were removed under the Housing Act 2004 in respect of the service of management notices where the management of HMOs falls below required standards.
- 8 Your Petitioner, the British Beer and Pub Association, established in 1904, is a limited company set up to promote and represent the business interests of the UK's brewing and pub sectors, to ensure that the economic and social value of beer and pubs is appreciated, recognised and supported by Government and opinion leaders in the UK and Europe, and to ensure that the image and reputation of the industry is enhanced.

The aims of the Association are to promote sensible and responsible drinking, to promote the social and commercial positives associated with brewing and pubs, to represent the sector before Government and Government bodies in the UK and EU, and to protect the commercial freedom of members.

- 9 The British Beer and Pub Association membership is open to UK brewing companies, companies importing beer into the UK and companies owning pubs or off-licence outlets. The Association's members account for 98% of beer brewed in the United Kingdom and own approximately 60% of Britain's 57,000 public houses. Member companies are represented on the Association's Council. The Association currently has 72 corporate members. Representatives of member companies are also able to become members of the Association's various groups, panels and committees. Members of the Association have business interests in Greater London.
- 10 In its representative capacity, your Petitioner objects to the Bill and the clauses and provisions herein referred to and are prepared to prove that they, their rights and interests and the rights and interests of those whom they represent are injuriously and prejudicially affected thereby for the reasons hereinafter appearing.
- 11 Clause 9 seeks to redefine the definition of "the standard amount" in section 115F(2) of the Highways Act 1980 to cover the costs of various aspects of highway maintenance in addition to the administrative costs to the council of granting the permission, where the Council does not own the sub-soil. Where councils own the subsoil beneath the part of the highway in relation to which the permission is granted under section 115E of the Highways Act 1980, they already have the power to impose such conditions as they see fit which may include requiring a payment to the council of such reasonable charges as they may determine to cover maintenance issues. Where councils do not own the sub-soil, they do not have the same responsibilities for the maintenance of the highway and should not, therefore, be able to recover similar costs. In such cases, the standard charge should be sufficient to cover the costs of administration incurred in granting the permission. Businesses already pay for council services through business rates, and there are also other remedies available to councils, if necessary, to fund maintenance such as street cleansing; for example, through a Business Improvement District.

- 12 If the provisions of Clause 9 are enacted, this will result in inconsistency of approach between the London authorities and other local authorities in England and Wales, which will create confusion, anomalies, and unfairness. A national approach is essential to the granting of such permissions to businesses, such as public houses, restaurants and bars, which wish to offer customers the opportunity to sit outside. All local authorities face the same issues and local challenges in respect of these matters.
- 13 If the provisions of Clause 10 are enacted, this will place a significant and unnecessary burden on food businesses, including many public houses, in the London area. The display of food hygiene documentation by food business operators, or “Scores on the Doors”, is currently a pilot project being co-ordinated by the Food Standards Agency (FSA) in some London boroughs and a number of other local authorities across the country. It is unacceptable to seek to codify something in law which is in need of further refinement and remains, as yet, unproven.
- 14 The BBPA has expressed a number of reservations to the FSA about the pilot “Scores on the Doors” scheme. In its letter of 29th October 2007 to John Harwood, Chief Executive of the FSA, the Association questioned the rating systems being used by local authorities piloting the “Scores on the Doors” scheme, particularly the five star system being used by some London Boroughs, which is far too broad, taking into account good management practice at the higher end, as opposed to what is actually required in law. The BBPA also highlighted the lack of comparability between schemes, and the fact that customers may be misled to consider the rating given as an indication of quality, as opposed to legal compliance. Finally, the Association also raised the issue of the lack of re-inspection or review of the scores once they have been awarded.
- 15 Following a recent meeting with the FSA, our understanding is that the Agency favours a voluntary national scheme, and is currently seeking the input of industry in the development process.
- 16 If enacted, the provisions of Clause 10 would also create further legislative burdens on businesses which will undermine the efforts of the Food Standards Agency to reduce such burdens as part of its Simplification Plan, and pre-empt the outcome of the current “Scores on the Doors” pilot exercise.

- 17 If enacted, Clauses 11 to 20 will have the effect of extending the provisions of the Housing Act 2004, which already enables local housing authorities to impose conditions on a Houses in Multiple Occupation (HMO) licence, which might include necessary repairs. Local housing authorities also have powers to revoke a HMO licence in cases where the licence holder has committed a “serious breach” or repeated breaches of licence conditions, or where the manager or licence holder is no longer deemed “fit and proper”. A significant number of pubs will fall under the definition of HMO as they provide staff accommodation. We therefore submit that local authorities already have the necessary powers under the 2004 Act to take action against the management of HMOs where this proves necessary; hence the removal of pre-existing powers to serve management notices.
- 18 Your Petitioners also observe that there is no indication given in the Bill of the level of charges that might be expected under the various proposals, which have not been subject to a Regulatory Impact Assessment of the potential costs or benefits to business, as would be the case with Government proposals.
- 19 Your Petitioners therefore respectfully submit that the Bill should not be allowed to pass into law in its present form, and that the Preamble to the Bill is incapable of proof.

YOUR PETITIONER THEREFORE HUMBLY PRAYS to Your Honourable House that the Bill may not pass into law as it now stands and that they may be heard by themselves, their Counsel or Agent against the Preamble of the Bill and if the same do pass against all the clauses and provisions thereof which relate to or affect their property rights and interests and in support of other clauses and provisions for the protection and benefit of your Petitioner and their property rights and interests and that they may have such other relief as your Honourable House shall deem meet.

AND YOUR PETITIONERS WILL EVER PRAY, &c.

**Signed by Dr. M.J. Rawlings
on behalf of**

The British Beer and Pub Association

IN PARLIAMENT

HOUSE OF LORDS

SESSION 2007-08

LONDON LOCAL AUTHORITIES BILL[HL]

P E T I T I O N

of

The British Beer and Pub Association

AGAINST By Counsel, &c.

Dr Martin Rawlings

Director (Pub & Leisure)

on behalf of

British Beer & Pub Association

31st January 2008